

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 1000 of 2015 (Y)

PETITIONER(S):

1. SIBIKUTTY THOMAS,
AGED 52 YEARS, S/O. THOMAS,
KAKKADAMPALLY VEEDU, CHAMPAKULAM,
KUTTANAD, ALAPPUZHA.
2. BIJU K.,
AGED 40 YEARS, S/O. KRISHNAN, MEENATHERIL (VRINDAVAN),
EVOOR, CHEPPAD,
ALAPPUZHA.
3. A.SHANMUGHASUNDARAM,
AGED 46 YEARS, S/O. ANNAMALAYIL, NORTH STREET 2/4,
KEEZHEPILLAYARKULAM P.O., THIRUNALVELI DISTRICT,
TAMIL NADU.

BY ADVS.SRI.K.SHAJ
SRI.SAJJU S.

RESPONDENT(S):

1. THE DISTRICT COLLECTOR,
CIVIL STATION, ALAPPUZHA - 681 001.
2. THE SUB INSPECTOR OF POLICE,
HARIPPAD POLICE STATION,
HARIPPAD - 690 012.

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) EXHIBITS :

EXHIBIT P1- TRUE COPY OF THE SEIZURE MAHAZAR OF THE EXCAVATOR OF THE FIRST PETITIONER.

EXHIBIT P2- TRUE COPY OF THE SEIZURE MAHAZAR OF THE EXCAVATOR OF THE SECOND PETITIONER.

EXHIBIT P3- TRUE COPY OF THE SEIZURE MAHAZAR OF THE EXCAVATOR OF THE THIRD PETITIONER.

EXHIBIT P4- TRUE COPY OF THE PETITION FILED BY THE FIRST PETITIONER.

EXHIBIT P5- TRUE COPY OF THE PETITION FILED BY THE SECOND PETITIONER.

EXHIBIT P6- TRUE COPY OF THE PETITION FILED BY THE THIRD PETITIONER.

EXHIBIT P7- TRUE COPY OF THE ORDER NO.C2-55310/2014 DATED 22/12/2014 OF THE FIRST RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 1000 of 2015

Dated this the 12th day of January, 2015

J U D G M E N T

The petitioners are the owners of the vehicles with model Hitachi EX60-Excavator having Serial No.IOF 1223, Tata Hitachi Ex70 Hydraulic Excavator having Serial No.07030141 and EX60 G model Hitachi Excavator having Serial No.10F-0189, which were seized by the 2nd respondent. The said vehicles were taken to custody as per Exts.P1 to P3 seizure mahazars, alleging offences committed under the relevant provisions of the Kerala Conservation of Paddy Land and Wet Land Act, 2008. The petitioners filed Exts.P4 to P6 petitions before the 1st respondent for releasing custody of the vehicles. After considering the same, Ext.P7 interim order was passed on 22.12.2014, whereby the petitioners have been required to satisfy 30% of the value of the vehicles and to furnish security by way of 'Bank Guarantee' or 'Bond' as specified therein, so as to cause custody of the vehicle to be released to the petitioners. The petitioners have moved this Court seeking for modification to the said order, to the effect that the petitioners are ready to satisfy security by way of immovable

properties and the prayer is to cause the vehicles to be released.

2. Heard the learned Government Pleader as well.

3. On going through the pleadings and proceedings it is seen that, the offence levelled against the petitioners is under Kerala Conservation of Paddy Land and Wet Land Act, 2008 and not under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. This being the position, the reliance sought to be placed on the decision rendered by this Court in **Shan C.T. V. State of Kerala (2010 (3) KHC 333)** as referred to in Ext.P7 is having no application at all. As a matter of fact, the liability under Act 28/2008, to redeem the vehicle, is to an extent of 1 ½ times of the market value of the vehicle. If the petitioners offer security to the said extent, the request can be considered, submits the learned Government Pleader.

4. The learned counsel for the petitioners readily agrees to the said proposal and undertakes that the petitioners are ready to furnish security by way of immovable property to the said extent, to the satisfaction of the authorities concerned.

5. In the said circumstances, the petitioners are set at

liberty to furnish security by way of immovable properties to the extent of 1.5 times of the value of the concerned vehicles before the 1st respondent, upon which interim custody of the vehicles shall be released to the petitioners forthwith. It for the 1st respondent to finalise the proceedings in accordance with law, as expeditiously as possible, at any rate within 'three months' from the date of receipt of a copy of this judgment, passing final orders in respect of the proceedings forming the subject matter of Ext.P7.

The writ petition stands disposed of. The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the 1st respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.